

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

VICTOR MANUEL BURGOS  
TX-1335184-R

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DOCKETED COMPLAINT NO.  
08-001 & 08-023

**AGREED FINAL ORDER**

On this the 20th day of February, 2009, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Victor Manuel Burgos (Respondent).

In order to conclude this matter Victor Manuel Burgos neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent Victor Manuel Burgos is a Texas state certified residential real estate appraiser, holds certification number TX-1335184-R, and has been certified by the Board during all times material to the above-noted complaint case.
2. On or about September 13<sup>th</sup>, 2007 and August 31<sup>st</sup>, 2008 respectively, Respondent appraised the subject properties located at 7483 Michael Road, Sanger, Denton county, Texas 76266 ("the Michael Road property) and, 415 Robin Road Cedar Hill, Dallas county, Texas 75104 ("the Robin property").
3. On or about September 21<sup>st</sup>, 2007, the Complainant, Tim James, filed a complaint with the Board. The complaint alleged that the appraisal report omitted material information in violation of USPAP, which impacted the credibility of the report.
4. On or about October 3<sup>rd</sup>, 2007, the Complainant, Belinda K. Mangram, filed a complaint with the Board. The complaint alleged that the appraisal report omitted material information in violation of USPAP, which impacted the credibility of the report.
4. On or about September 24<sup>th</sup>, 2007 and October 17<sup>th</sup>, 2007 the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. CHPT. 2001, and TEX. OCC. CODE CHPT. 1103, notified Respondent of the nature of the accusations involved and Respondent was afforded an opportunity to respond to the accusations in the complaints. Respondent's responses to the complaints were received.

5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the "Michael Road property":

- a) Respondent did not fully comply with the record keeping provisions of the Ethics Rule;
- b) Respondent did not fully comply with the Supplemental Standards Rule;
- c) Respondent did not fully identify and report the site description adequately by not reporting the specific zoning classification;
- d) Respondent did not fully identify and report the improvement(s) description adequately;
- e) Respondent did not fully identify, analyze and report the effect on value of economic supply and demand and market area trends;
- f) Respondent did not provide a brief summary of his supporting rationale and basis for his determination of the property's highest and best use;
- g) Respondent did not use an appropriate method or technique to develop an opinion of the site value;
- h) Respondent did not completely collect, verify, analyze and reconcile the cost of new improvements and accrued depreciations and generally failed to employ recognized methods and techniques in his cost approach;
- i) Respondent did not completely collect, verify, analyze, and reconcile comparable sales data adequately and did not employ recognized methods and techniques in his sales comparison approach;
- j) Respondent did not completely reconcile the quality and quantity of the data within the approaches used which resulted in a misleading appraisal report for the property.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the "Robin property":

- a) Respondent did not completely comply with the conduct and record keeping provisions of the Ethics Rule;
- b) Respondent did not completely comply with the Supplemental Standards Rule;

- c) Respondent did not identify and report the zoning classification and site description adequately;
- d) Respondent did not identify and report the improvement(s) description adequately;
- e) Respondent did not identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, and physical adaptability of the real estate and market area trends;
- f) Respondent did not use an appropriate method or technique to develop an opinion of site value;
- g) Respondent did not collect, verify, analyze and reconcile the cost of new improvements and accrued depreciations and generally failed to employ recognized methods and techniques in his cost approach;
- j) Respondent did not collect, verify, analyze and reconcile comparable sales data and did not employ recognized methods and techniques in his sales comparison approach;
- l) Respondent did not analyze the agreement of sale; and,
- m) Respondent's report for the property contains substantial errors of commission or omission as detailed above which resulted in an inaccurate appraisal report.

7. Respondent omitted material facts as detailed above.

## **CONCLUSIONS OF LAW**

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq.

2. Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Ethics Rule; Supplemental Standards Rule; USPAP Standards: 1-2(e)(i) & 2-2(b)(ii); 1-2(e)(i) & 2-2(b)(iii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(viii); 1-6(a) & (b); 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c); and 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by omitting material facts.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Have his certification suspended for 12 months with this suspension being fully probated under the following conditions:
  - i. During the entire probated, twelve month suspension period Respondent shall submit to the Board an appraisal experience log on a form prescribed by the Board. The log shall be submitted every three months and shall detail all real estate appraisal activities he has conducted during the previous three month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisals reports and work files for any appraisal assignments he performs during the course of his period of probation within the twenty days of notice of any such request; and
  - ii. Fully and timely comply with all of the provisions of this Agreed Final Order.
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies;
- d. Attend and complete a minimum, 15 classroom-hour course in Sales Comparison Approach Course;
- e. Attend and complete a minimum, 5 hour classroom course in Mortgage Fraud; and
  - i. No examination shall be required for this course;
- f. Pay a \$1,500.00 administrative penalty; and,
- g. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing

education requirements for certification.

Failure to timely comply with any of the terms of this Final Agreed Order shall result in initiation of a contested case proceeding against Respondent and after opportunity for a hearing, possible imposition of disciplinary sanctions against Respondent as provided for by TEX. OCC. CODE § 1103.518, including but not limited to revocation of the above-noted probation.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 12<sup>th</sup> day of February, 2009.

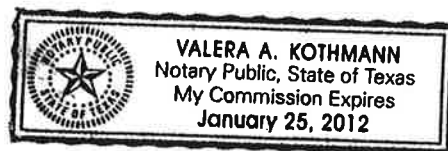
Victor M. Burgos  
VICTOR MANUEL BURGOS

Chad Norcross  
CHAD NORCROSS, ATTORNEY FOR  
RESPONDENT

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 12<sup>th</sup> day of February, 2009, by VICTOR MANUEL BURGOS, to certify which, witness my hand and official seal.

Valera A. Kothmann  
Notary Public Signature

Valera A. Kothmann  
Notary Public's Printed Name



Signed by the Commissioner this 20<sup>th</sup> day of February, 2009.

Loretta DeHay  
Loretta DeHay, Interim Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20<sup>th</sup> day of February, 2009.

A handwritten signature in black ink, appearing to read "Clinton P. Sayers", written over a horizontal line.

Clinton P. Sayers, Chairperson  
Texas Appraiser Licensing and Certification Board